APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/617,600	06/13/2000	Robert E. Dye	5150-38601	6393

7590 01/26/2004	**EXAMINER**
Jeffrey C Hood	VO, TED T
Conley Rose & Tayon PC	

ART UNIT	PAPER NUMBER
2122	

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/ 4

DATE MAILED: 01/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/617,600

Applicant(s)
DYE ET AL.

Examiner
Ted T. Vo

Art Unit
2122

-- The MAILING DATE of this communication appears on the cover sheet with the correspond nce address --

Peri d for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _17 November 2003_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-32, 103-157_ is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-32, 103-106, 110-136 and 140-157_ is/are rejected.

7)☒ Claim(s) _107-109, 137-139_ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a) ☐ The translation of the foreign language provisional application has been received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _11, 13_.

4)☐ Interview Summary (PTO-413) Paper No(s). _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: .

DETAILED ACTION

1.   This action is in response to the communication filed on 11/17/03.

Claims 103-157 are newly added. Claims 33-73 are canceled. Claims 74-102 are withdrawn by

applicants in response to restriction/election requirements.

Claims 1-32, 103-157 are pending.

Response to Arguments

2.   Applicants' arguments have been considered. However, the arguments are not persuasive.

- Applicants traverse the rejection of claims 1-73 under 35 USC 102(b) as being anticipated by Shaheen

(remarks section, page 22).

Examiner responds: It is improper to traverse the claims which are already canceled, where

applicants canceled claims 33-73. Applicants merely traverse the rejection of claims 1-73 without

connecting to a specific claims' limitation; the rejection to claims 1-32 are still maintained.

- Arguments in regard to the newly added claim 103, applicants contend that Shaheen fails to teach

features <u>Description</u> and <u>based on the description</u> as they are underlined and shown in the claim 103

(remarks section, page 23), where applicants argue that Shaheen teaches an image is provided to a

client computer, not a <u>description</u> of a user interface (page 23, lines 12-17).

Examiner responds: Claim 103 has the claimed functionality corresponding to the claim 1, the

rejection or allowability of claim 103 would be in the same as of claim 1.

The claimed functionality in the newly added claim 103 includes the argued recitations "<u>description</u>" and

"<u>based on the description</u>". Accordingly, the action is provided in section 4 below.

The recitations "<u>description</u>" and "<u>based on the description</u>" including the specification fail to make a

distinction from the terminologies used in Sharheen's teaching.

In fact, Shaheen teaches <u>JPEG image format</u> that is used by a client computer to display a JPEG panel

that interacts with experiment output data sent from LabView programming environment executed by a

LabView server (page 1327, third paragraph of the numbering 7). Shaheen teaching does not simply mean "image" as argued. Shaheen teaches <u>JPEG image format</u> and HTML VI that are displayable by a web browser.

Thus, <u>JPEG image format</u> including HTML VI has means of a description because it describes how to display a <u>JPEG panel</u> (claimed limitation: user interface panel).

In the specification (page 8, lines 5-18), the term <u>description</u> is expressed in a generic meaning. According to the specification, <u>description</u> may be sent <u>in various formats</u> from a server. The specification has not described or defined the term "description" in a manner to overcome the Shaheen's teaching. Shaheen teaches <u>JPEG image format which is embedded in the Expl HTML VI</u> (description) (see page 1327, third paragraph of numbering 7 (right-hand column)). This format is used for display a JPEG panel. Shaheen teaches the <u>display of the JPEG panel and HTML reply document which appears in the web browser with hyperlinks, forms, and the JPEG panel</u> (based on the description) (see page 1327, third paragraph of numbering 7).

Shaheen teaches <u>JPEG panel embedded in the HTML VI</u> (user interface panel) (see page 1327, third paragraph of numbering 7).

With regards to the arguments of claim 105, 106, and 110 are moot because these claims are newly added. See section 4 for the actions.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4.   Claims 1-32, 103-106, 110-136, 140-157 are rejected under 35 U.S.C. 102(b) as being

anticipated by **Shaheen et al.**, "Remote Laboratory Experimentation", 1998.

Given the broadest reasonable interpretation of followed claims in light of the specification.

As per claim 1: Regarding claim limitation:

Shaheen discloses, *"A method for remotely accessing a graphical program, the method*

comprising:

Receiving information specifying a remote computer; receiving information specifying a graphical

program on the remote computer"; (see page 1326, right-hand column, fifth paragraph);

"connecting to the remote computer, where said connecting comprises passing information

specifying the graphical program to the remote computer" (The connection between LabVIEW

Server and client, see page 1327, fourth paragraph of numbering 7 (right-hand column));

"receiving a description of user interface associated with the graphical program" (User accesses

output data from the experiment provided by LabView Server, including JPEG image format - see page

1327, third paragraph of numbering 7 (right-hand column)), and see pages 1328-129, four numberings in

section 2.3);

"displaying a user interface based on the description received" (Displaying output, page 1328, right-

hand column, the paragraph started with "The output data...").

As per claim 2: LabVIEW Server loads client requests and starts execution (see abstract and see

page 1327, first column, section 2.1, step 5).

As per claim 3: See page 1327, section 2.1, steps 5-6.

As per claim 4: See page 1327, section 2.1, step 1.

As per claim 5: See page 1327, section 2.1, steps 6-7.

As per claim 6: See page 1327, section 2.1, step 7, new input.

As per claim 7: See page 1327, section 2.1, step 5.

As per claim 8: See page 1327, section 2.1, step 5.

As per claims 9-10: Claims are inherent in the web connection, specified in a request from a client

computer (page 1326, right-hand column, fifth paragraph), and specified in HTTP (page 1327, second

column, fifth paragraph).

As per claim 11: Claim is inherent in the display in a browser which prompts a user with a

hyperlink (see page 1327, section 2, step 6). The hyperlink provides the user a data file downloaded from

an ftp-site to form a remote access protocol. The remote access allows the user to input parameters to

interact his LabVIEW experiment (see page 1327, section 2, step 7). The remote experiment provides

graphical output generated by LabVIEW to upload to the client (see page 1327, section 2, steps 4-5).

As per claim 12:

Regarding limitations:

Executing the graphic program (See LabVIEW server, and LabVIEW programming environment,

page 1236)

Establishing a network connection with a first client computer (LabVIEW Server and client);

Receiving a request from the first client computer for viewing the output of a graphical program;

sending a description of the graphical program out put to the first client computer, in response to receiving

the request from the first client (See page 1327, section 2.1, second column, third and fourth paragraphs);

As per claim 13: See page 1327, section 2.1, step 7.

As per claim 14: Regarding wherein graphical program, see page 1326, LabVIEW programming.

Regarding wherein said sending a description; see page 1327, section 2.1, step 6. Regarding wherein the

first client computer, see page 1327, second column, fourth paragraph.

As per claim 15: Being Inherent from the act that is done by a server network, where a server

provides all connection to its clients.

As per claim 16: Claim is inherent in interactive action of the experiment that allows reloading

refreshing actions for real time monitoring and control (see page 1329, first column, step 4 of section 2.3).

As per claims 17-18: Gives the same reason as in claim 16, where claim is inherent a gate way

that receives a queue of requests from clients and pass each request to executed engine (see page

1327, section 2.1, steps 4-5).

As per claim 19: See reasons set forth in connecting to claim 1.

As per claim 20: Shaheen's system is included with a so-called 'LabVIEW server', which is a server computer connected to an experimental setup included with a PC run with LabVIEW environment (see page 1326), and a remote client computer within a university (See pages 1327-128, section 2). Shaheen's system provides a user to remotely access the LabVIEW graphical execution by using all availabilities of Internet connection and the help of Internet developer toolkit provided to the PC and the client (See pages 1327-128, section 2). The experiment is performed at the remote PC (see pages 1327-128, section 2), and it provides the display to the client at the university using the LabVIEW server. Shaheen's system reads all the claim limitations which appear to be Internet establishment of a client computer and a graphical environment server.

As per claim 21: Regarding client software; see page 1328, second column, particularly see 'parameters', 'submits', 'user remotely operates', etc. Regarding server software; see page 1328, first column, steps 4 and 5.

As per claim 22: See the data file first downloaded by the client; this data file allows the user to have an entry form (page 1327, second column, steps 6-7).

As per claim 23: The entry form provides interactive communication between the client and the remote experimentation (page 1327, second column).

As per claim 24: Claim is inherent from the interactive communication between the client and the remote experimentation performed from the LabVIEW server and the experimentation.

As per claim 25: Claim is inherent from the interactive communication between the client and the remote experimentation performed from the user.

As per claim 26: Inherent in Internet developers tool-kit.

As per claim 27: Inherent in the LabVIEW server.

As per claim 28: The claim limitation has the functionality corresponding to claim 12. See reasons set forth in connecting to the rejection of claim 12.

As per claim 29: The claim limitation has the functionality corresponding to claim 13. See reasons set forth in connecting to the rejection of claim 13.

As per claim 30: The claim limitation has the functionality corresponding to claim 14. See reasons set forth in connecting to the rejection of claim 14.

As per claim 31: The claim limitation has the functionality corresponding to claim 16. See reasons set forth in connecting to the rejection of claim 16.

As per claim 32: The claim limitation has the functionality corresponding to claim 15. See reasons set forth in connecting to the rejection of claim 15.

As per claim 103: The claim recites a method, for executing a graphical program in a first computer and displaying the output in a second computer, that has the functionality corresponding to claim 1. See reasons set forth in connecting to the rejection of claim 1.

As per claim 104: Sharheen discloses claim limitation (see page 1327, numbering 6 (right-hand column), "new form for user input", and third paragraph in numbering 7 (right-hand column), "JPEG panel").

As per claim 105: Sharheen discloses claim limitation, *"providing output data from the block diagram executing on the first computer to the second computer"* (see page 1326, left-hand column, numbering 3; right-hand column, second paragraph, referring to "Labview server", "it can be used as a gateway to execute programs", see page 1327, right-hand column, third paragraph of numbering 7, "The output data");

"displaying out put data in the user interface displayed on the second computer" (see page 1327, right-hand column, third paragraph of numbering 7);

As per claim 106: Sharheen discloses, *"wherein the output data is provided to the second computer separately from the description of the user interface"* (see page 1327, right-hand column, third paragraph of numbering 7, "output data from the experiment" and "JPEG image format", where output data from the experiment represents data generated by LabView graphical programming, and JPEG image format represents a description to make the browser to display the JPEG panel. The twos are separrtatedly).

As per claim 110: Sharheen discloses,

"rec iving input data to the us r interfac displayed on the second computer; and

providing to the input data to th block diagram executing on the first computer"

see page 1327, left-hand column, numberings 2, 4, 5. These numberings show that the LabView

server receives data submitted by a client. This data is executed by the LabView graphical programming,

where LabView graphical programming contains block diagrams.

As per claim 111: Shaheen discloses claim 111 (see page 1327, numbering 6, (right-hand

column)).

As per claim 112: Shaheen discloses claim 112 (see page 1326, referring to LabView; page

1327, refereeing to output data from the experiment; and HTML VI in the client computer).

As per claim 113: Claim has the functionality corresponding to the functionality of claim 103,

Shaheen teaches the third computer because it provides network connection.

As per claim 114: Shaheen discloses claim 114 (see page 1327, left-hand column, numberings

2, 4, 5. These numberings show that the LabView server receives data submitted by a client. This data is

executed by the LabView graphical programming, where LabView graphical programming contains block

diagrams).

As per claim 115: Shaheen discloses claim 115, see Labview server, Labview programming

environment in page 1326, and refer to Clients or Web-Browsers, connected to the Labview server to

perform a remote experiments.

As per claim 116: Shaheen discloses claim 115, see JPEG image format.

As per claim 117: Shaheen discloses claim 117, see all Browsers, users, page 1327, right-hand

column, and last paragraph.

As per claim 118: Shaheen discloses claim 118, see page 1327, third paragraph of numbering 7.

As per claim 119: Shaheen discloses claim 119 because they conduct the experiment's execution

in a network.

As per claim 120: Shaheen discloses claim 120 because it teaches input is sent to the LabView

server and executed by the LabView programming environment (page 1326).

As per claim 121: Shaheen discloses claim 121 (page 1326, LabView programming environment).

As per claim 122: Shaheen discloses claim 122 (referring to property of network).

As per claim 123: Shaheen discloses claim 123 (see 1327, numbering 6, "ftp-site').

As per claim 124: Shaheen discloses claim 124 (see 1327, numbering 6, "ftp-site').

As per claim 125: Shaheen discloses claim 125 (referring to server/client and HTML).

As per claim 126: Shaheen discloses claim 126 (see 1327, fifth paragraph of numbering 7, "browser").

As per claim 127: Shaheen discloses claim 127 (see 1327, third paragraph of numbering 7, "output data from the experiment").

As per claim 128: Shaheen discloses claim 128 (see 1328, right-hand column, line 1, "wait for a new input from the client").

As per claim 129: Shaheen discloses claim 129 (see 1328, section Remote Real-time monitoring).

As per claim 130: Shaheen discloses claim 130 (see 1328, section Remote Real-time monitoring, where user can switches, where the switches are parts of LabView graphical programming).

As per claim 131: Shaheen discloses claim 131 (see 1327, left-hand column, lines 1-2).

As per claim 132: The claim recites a system for executing a graphical program in a first computer and displaying the output in a second computer, that has the functionality corresponding to claim 103. See reasons set forth in connecting to the rejection of claim 103.

As per claim 133: Shaheen discloses further limitation of claim 133 because the Shaheen system provides remote experiment.

As per claims 134-136: The claims recite a system that has the functionality corresponding to claims 104-115, respectively. See reasons set forth in connecting to the rejection of claims 104-106.

As per claims 140-145: The claims recite a system that has the functionality corresponding to claims 110-115, respectively. See reasons set forth in connecting to the rejection of claims 110-115.

As per claim 146: Shaheen discloses the limitation (see LabView programming environment)

As per claim 147: Shaheen discloses the limitation (see LabView programming environment, and snap shot)

As per claim 148-157: The claims recite a system that has the functionality corresponding to claims 123-131, respectively. See reasons set forth in connecting to the rejection of claims 123-131.

Allowable Subject Matter

5.   Claims 107-108, and 137-138 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

- With regard to the limitation of claim 107

"*wherein said providing output data from the block diagram executing on the first computer to the second computer and said displaying the output data in the user interface displayed on the second computer are performed multiple times;*

wherein the description of the user interface is not provides to the second computer each time output data is provided to the second computer a single time",

and in the same manner as recited in 137, the applicants' argument for that this limitation provides the distinction from the snap shot of the image format, as taught by Shaheen, is considered.

- With regard to the limitation of claim 108,

"*where the block diagram executing on the first computer is operable to continuously produce output data;*

wherein said providing the output data from the block diagram executing on the first computer comprises providing the continuously produced output data to the second computer;

wherein said displaying the output data in the user interface displayed on the second computer

comprises continuously updating the user interface displayed on the second computer to display the

continuously output data",

and in the same manner as recited in 138, the applicants' argument for that this limitation provides the

distinction from Shaheen's refreshment of images, is considered.

6.   Claims 109 and 139 are object to as being depended on the objected claims, 108 and 138.

Conclusion

7.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office

action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of

the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from

the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date

of this final action and the advisory action is not mailed until after the end of the THREE-MONTH

shortened statutory period, then the shortened statutory period will expire on the date the advisory action

is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX

MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should

be directed to Ted T. Vo whose telephone number is (703) 308-9049. The examiner can normally be

reached on Monday-Friday from 8:00 AM to 5:30 PM ET. If attempts to reach the examiner by telephone

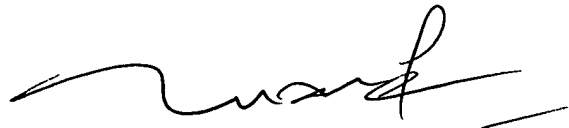are unsuccessful, the examiner's supervisor, Tuan Dam, can be reached on (703) 305-4552.

The fax phone numbers:

(703) 872-9306 (for formal communication intended for entry);

(703) 746-5429 (for informal or draft communication, please label "PROPOSED" or "DRAFT").

Any inquiry of a general nature or relating to the status of this application or proceeding should be

directed to the Group receptionist whose telephone number is (703) 305-3900.

TUAN DAM
SUPERVISORY PATENT EXAMINER

TTV
January 16, 2004